

STEEL IMPORT STABILIZATION ACT

SEPTEMBER 27, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 6301]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6301) to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are shown in the reported bill, with the matter proposed to be stricken shown in linetype and the matter proposed to be inserted shown in italic type.

BACKGROUND AND PURPOSE

H.R. 6301 provides legislative authority for the President to implement and enforce a national policy for the steel industry as expressed in his September 18 announcement regarding import relief (Executive Communication 4046, House Document 98-263). The bill provides authority to impose necessary import measures to enforce any bilateral arrangement entered into or undertaken as part of such national policy. The legislation makes the exercise of such authority, however, contingent upon satisfactory reinvestment and modernization efforts by the industry. The legislation also contains

several provisions designed to assist steelworkers who are on long-term unemployment and who have limited prospects for returning to work in steel operations. Finally, H.R. 6301 contains sense-of-the-Congress provisions indicating that steel imports should, through the President's program, be reduced to a level commensurate with fair trade conditions, which should approximate 17 percent of U.S. consumption, and that if the President's program is unsuccessful, further legislative action will be considered. The bill contains important findings about the need of the industry to modernize its production facilities, the serious injury caused to the industry by imports, and the need for more aggressive government action against unfair trade in steel products (particularly dumping and subsidies).

H.R. 6301 is a response to the President's decision to deny a recommendation for the imposition of mandatory quotas by the U.S. International Trade Commission (ITC) under the procedures set forth in section 201 of the Trade Act of 1974. In deciding to reject outright quotas, the President announced his intention to negotiate so-called "surge control" arrangements and other bilateral restraints with steel-exporting countries in order to limit overall steel imports. The statement also committed the government to a more vigorous policy of enforcement with respect to unfair trade practices such as dumping and subsidization. The statement concluded with the express hope that a combination of appropriate actions would result in an import share of approximately 18.5 percent excluding semi-finished steel, or about 20 percent when a target level for semi-finished steel is factored in.

This action by the President came after extensive deliberations by the Committee on legislation to impose import quotas on all categories of carbon and alloy steel products. That legislation, entitled the "Fair Trade in Steel Act" (H.R. 5081), has been the subject of extensive hearings and debate within the Committee. As is the appropriate procedure under the trade laws, however, a decision by the Committee on whether to report such a measure was delayed until the appropriate procedures under the 1974 Trade Act—a recommendation by the ITC followed by a Presidential decision—was entirely complete.

In light of the President's decision to negotiate appropriate limits on imported steel rather than adopt unilateral quotas, the Committee does not consider it appropriate to take action on the Fair Trade in Steel Act at this juncture. The major steel producers have reacted favorably to the President's decision, and it appears that, if this program is fully and aggressively implemented, many of the objectives of that legislation would be achieved.

Furthermore, the negotiation of bilateral restraints or other understandings could avoid harsh retaliation by our trading partners and thereby avoid potentially serious consequences to U.S. exporters.

The Committee does believe, however, that it is both appropriate and necessary to address the President's recent action by granting express authority for the enforcement of comprehensive surge control arrangements while at the same time tying such arrangements to an ongoing commitment by the industry to modernize its plants and provide adequate safeguards to its workers. H.R. 6301 estab-

lishes such conditions, yet does so in a manner that is reasonable and achievable insofar as the industry is concerned. Moreover, the legislation establishes clear Congressional oversight of the President's program, so that the full authority and power of the Legislative branch is committed to the objectives set forth in the Act. The legislation contemplates a comprehensive program of negotiated restraints, covering all steel products (thereby avoiding diversion among various product categories) and all countries for which export surges are a serious problem. Finally, H.R. 6301 makes it clear that Congress will consider appropriate action, with respect to both steel and iron ore, if the President's program does not bring about satisfactory results within a reasonable period.

SUMMARY OF THE STEEL IMPORT STABILIZATION ACT, H.R. 6301, AS AMENDED

H.R. 6301, as amended, consists of nine sections to provide the President with authority to enforce the quantitative limitations and bilateral arrangements entered into as part of the President's national steel policy and to provide certain worker assistance to dislocated steelworkers.

The principal provisions of H.R. 6301 can be summarized as follows:

SECTION 1: SHORT TITLE

Section 1 states that this Act may be cited as the "Steel Import Stabilization Act."

SECTION 2: FINDINGS AND PURPOSES

Section 2 sets forth six Congressional findings with respect to the domestic steel industry's need for increased capital investments in order to modernize its plant and equipment; the adverse effects of an overvalued dollar and large deficits as well as serious injury due to imports of and unfair trade in steel products; the difficulties of combating unfair trade practices through the trade remedy laws; the need for expeditious and effective action by the Executive Branch in dealing with unfairly traded steel, including greater efforts to self-initiate and pursue remedies; the requirement that any import relief provided should be tied to a firm commitment by the steel industry to modernize during the period of relief; and that full and effective implementation of the national steel policy will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

Section 2 also sets forth the purposes of this Act, which are to provide the President with authority to enforce the bilateral arrangements that are entered into or undertaken for purposes of implementing the national steel policy, and to make the continuation of that enforcement authority subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SECTION 3: SENSE OF THE CONGRESS

Section 3 contains three provisions expressing the sense of the Congress. The first is that the President should use his authority to implement the national policy in such a manner as to restore the import share of the U.S. steel market to a level commensurate with that which would obtain under conditions of fair, unsubsidized competition, a level which the Congress believes should be approximately 17 percent.

The second provision expresses the sense of the Congress that the national policy should not be implemented in a manner contrary to the antitrust laws.

The third provision expresses the sense of the Congress that, if the President's program does not produce satisfactory results within a reasonable period of time, the Congress will consider taking further legislative action.

SECTION 4: DEFINITIONS

Section 4 provides definitions of the terms "bilateral arrangement," "carbon and alloy steel products," "national policy for the steel industry," and "steel industry."

SECTION 5: ENFORCEMENT AUTHORITY

Section 5 provides the President with authority to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations and restrictions (including export measures required by a foreign government or customs union) contained in each bilateral arrangement. In using this authority, the President shall, to the extent practicable, cover all categories of carbon and steel alloy products, avoid distortions among those categories, and include all exporting countries and customs unions from which surges in exports of those products to the United States are being, or have been, experienced.

SECTION 6: EFFECTIVE PERIOD; ANNUAL RENEWAL

Section 6 provides that the authority under Section 5 shall be limited to a maximum of five years, subject to annual renewal. Such authority will renew annually only if the President determines that, during the previous year, the steel industry, taken as a whole, (a) has invested substantially all of its net cash flow from carbon and alloy steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects; and (b) has taken sufficient action to maintain its international competitiveness, including action to restrain and discipline pricing policies and to control costs of production. An affirmative determination by the President under this section can be made only if each major company with significant reinvestment or modernization needs has committed all of its net cash flow (except that required to be committed to retraining) from carbon and alloy steel product operations during the previous year to meet those needs, and only if each major company with significant unemployment has committed during the previous year at

least one percent of net cash flow to the retraining of workers, including former workers who were laid off since January 1, 1982.

In making this determination, the President shall take into account information available from the International Trade Commission and other appropriate sources relating to the modernization efforts of the industry.

Such annual determination, and the reasons therefor, must be submitted by the President to the Committee on Ways and Means of the House and the Committee on Finance of the Senate before the date of renewal of authority.

SECTION 7: WORKER ASSISTANCE PLAN

Section 7 requires the Secretary of Labor to prepare, in consultation with the Steel Advisory Committee, and submit to Congress within six months a proposed plan of action for assisting workers in communities that are adversely affected by steel imports, including retraining and relocation assistance for former steelworkers who are unlikely to return to employment in the steel industry. Such plan shall be based on existing authority, but shall be accompanied by such recommendations for additional statutory authority as the Secretary considers necessary to carry out the purposes of the plan.

SECTION 8: TRADE ADJUSTMENT ASSISTANCE

Section 8 extends the authorization for the worker and firm adjustment assistance programs under Title II of the Trade Act of 1974 for two additional years, through September 30, 1987.

SECTION 9: EFFECTIVE DATE

Section 9 provides that this Act shall take effect on October 1, 1984.

COMMITTEE ACTION

H.R. 6301 was introduced on September 25, 1984 in response to Executive Communication 4046, dated September 18, 1984, in which President Reagan transmitted to Congress his action under Section 203 of the Trade Act of 1974 with respect to import relief for the U.S. carbon and alloy steel industry.

The Subcommittee on Trade held hearings on problems in the U.S. steel industry relating to trade and competitiveness, including testimony on H.R. 5081, the Fair Trade in Steel Act of 1984, on April 26, May 2, May 8, June 20, and August 3, 1984. The Subcommittee received testimony from a wide range of witnesses, including the Administration, steel producers, the labor union, steel consumers, and other parties who might be affected by legislated quotas.

On September 25, the Committee on Ways and Means considered H.R. 6301 in markup session. The Committee ordered H.R. 6301 favorably reported with one amendment by a voice vote.

SECTION-BY-SECTION ANALYSIS AND JUSTIFICATION

SECTION 1: SHORT TITLE

Section 1 provides that this act may be cited as the "Steel Import Stabilization Act."

SECTION 2: FINDINGS AND PURPOSES

Section 2 sets forth six Congressional findings which provide the background for this legislation. The first finding is that the U.S. steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization. Steel produced abroad often has a competitive advantage over domestically produced steel due to the extremely modern facilities and technologies used abroad. The U.S. steel industry lags behind many of its international competitors in terms of technological competitiveness, and needs to modernize plant and equipment through increased capital investments in the industry.

The Congress also finds that the ability of the domestic steel industry to be internationally competitive is, and has been impeded by the effects of the enormous Federal budget deficit, and overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding, carbon and alloy steel products. In its report to the President under the carbon and alloy steel section 201 investigation, the ITC determined that increased imports are a substantial cause of serious injury to five of the nine product categories under investigation. Subsidization and dumping have been found with respect to many of the countries exporting steel to the United States. Indeed, such practices are so extensive in the steel sector that the domestic steel industry, which must file antidumping and countervailing duty cases with respect to specific steel products from specific countries, carries a greater burden than most other industries in trying to combat unfair trade practices through the trade remedy laws.

The Congress further finds that more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against unfair trade practices, and expeditious and effective action under the President's national policy are needed to eliminate the adverse effects of unfair trade practices.

One of the most important of the Congressional findings, which provides the fundamental framework for this legislation, is that import relief should not be granted to the steel industry unless it is tied to a firm commitment by that industry to engage in serious and substantial modernization during the period of relief. This principle was extensively and thoroughly explored by the Committee during its deliberations on H.R. 5081, the Fair Trade in Steel Act. This principle was a fundamental element of the Fair Trade in Steel Act, and the primary reason why the United Steelworkers of America actively endorsed that legislation. In the report of the ITC to the President regarding the section 201 investigation, two of the five Commissioners recommended that, if the President provides import relief, such relief should be conditioned on appropriate ad-

justment plans and commitments. Support for this concept of "conditionality" is widespread, and provided the impetus for this legislation.

Finally, the Congress finds that full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

Section 2(b) sets forth the purposes of this Act, which are to supplement the authority of the President to achieve the goals of the national steel policy by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy, and to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SECTION 3: SENSE OF CONGRESS

Section 3 contains three sense-of-the-Congress provisions. The first is that the President should implement the national steel policy in such a manner as to restore the foreign share of the U.S. market for carbon and alloy steel products to a level commensurate with that which would obtain under conditions of fair, unsubsidized competition in that market. It is the sense of Congress that such level should, when that policy is fully implemented, result in an import market share of approximately 17 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require. This 17 percent figure would reflect an overall national average import share. The Committee does not expect the import share to be 17 percent in each customs region; such shares can be expected to vary from one customs region to the next, in accordance with long-established historical patterns of import penetration.

Subsection 3(2) states the sense of Congress that the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws. The national policy should not promote or condone, for example, steel cartels or other price-fixing or market-restricting practices which are inconsistent with our antitrust laws.

Finally, subsection 3(3) states the sense of Congress that, if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider further legislative action. What constitutes "satisfactory results within a reasonable period of time" will be for the Congress, not the President, to determine. Further legislative action includes such actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products. In addition to maintaining strict Congressional oversight over the President's implementation of the national steel policy, this provision reflects the Committee's concern over conditions in the domestic iron ore industry, which is linked to the condition of the steel industry, and the possible need for further legislative action concerning both steel and iron ore products.

SECTION 4: DEFINITIONS

Section 4 provides definitions of four terms used in the Act: "bilateral arrangement," "carbon and alloy steel products," "national policy for the steel industry," and "steel industry."

The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken by the United States and any foreign country or customs union, containing such quantitative limitations or other restrictions on the importation into, or exportation to, the United States of categories of carbon and steel alloy products, as may be necessary to implement the national policy for the steel industry.

This definition is meant to be broad enough to include not only formal restraint agreements reached between the United States and a foreign country or customs union, but also informal understandings whereby a foreign exporting nation has declared to the United States government, or offered other assurance, not necessarily in writing, that it will restrain its exports steel products to the United States to a specified level or share of the U.S. market. The definition encompasses not only arrangements entered into after the date of enactment of this legislation, but also all other arrangement previously entered into whose implementation will be part of the President's national steel policy.

The term "carbon and alloy steel products" means articles of the kinds subject to the investigation of the ITC numbered TA-201-51, and fabricated structural steel articles provided for under items 652.97 and 653.00 of the Tariff Schedules of the United States. The term covers all articles subject to the section 201 investigation conducted by the ITC, and is not limited to those articles or product categories the ITC found to be seriously injured by imports. Furthermore, the definition also includes two types of fabricated structural steel products which were not included in the section 201 investigation, but which the Committee considers to be in the general category of fabricated structural steel products. These items are offshore oil and natural gas drilling and production platforms and parts thereof made of iron or steel (652.97), and the basket "other" category of fabricated structural units made of iron and steel (653.00).

The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263), which officially transmits to Congress the President's response to the petition for import relief for the domestic carbon and alloy steel industry. Such response denied formal import restraints under the authority of section 203 of the Trade Act of 1974, but described a series of actions and elements which would constitute the President's new national policy for the steel industry.

The term "steel industry" means producers in the United States of carbon and alloy steel products.

SECTION 5: ENFORCEMENT AUTHORITY

Section 5 provides the basic authority to the President to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations and restrictions (including export measures required by a foreign government) contained in each bilateral arrangement. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for entry into the United States of such carbon and alloy steel products.

This enforcement authority is intentionally broad, to enable the President to enforce a wide variety of agreements and understandings in effect with different steel-exporting nations. Where the foreign exporting country has agreed to limit its steel exports to the United States by means of an export licensing system, for example, this authority allows the President to require such foreign export license as a condition for entry into the United States. Where the foreign-steel-exporting nation has not agreed to any specific enforcement mechanism, but agreed to restrain its steel exports to a certain level, this authority allows the President to prevent the entry of steel products from that country beyond the level specified. This authority, for example, would allow the President to have Customs monitor the level of steel imports from that country, and deny entry into the United States once the specified level has been reached. The Committee expects that the President will take measures to place appropriate restrictions on the use of foreign trade zones to avoid circumvention of the restrictions established under the national steel policy.

Section 5(b) requires the President to use this enforcement authority, to the extent practicable, to cover all categories of carbon and steel products and to avoid distortions among those categories. This provision is designed to urge the President to be as comprehensive as possible in implementing the national policy for the steel industry. Enforcement of restraints on a country's exports in, for example, two steel product categories will be ineffective if that same country's exports in another steel product category is unrestrained and therefore allowed to increase significantly. Negotiated restraint arrangements should therefore cover all categories of carbon and alloy steel products which the particular country exports to the United States. The President may provide for less restricted, or unrestricted, entry of certain specific items for reasons such as short supply in the United States, but should attempt to provide restraints for each of the nine product groups identified by the ITC in its section 201 investigation.

Section 5(b) also requires the President to be as comprehensive as practicable in enforcing restraint arrangements from all exporting countries and customs unions from which surges in exports are being, or have been, experienced. In order to be effective, the national policy must deal with all countries whose steel exports to the United States have significantly increased over the recent past, or whose levels of steel exports to the United States have departed from historical trends or normal market trends. This provision is not designed to reach countries whose steel exports have been

traded fairly and have been at levels which the United States feels is consistent with market forces.

The enforcement authority included in section 5 of this bill is not meant to exclude or prevent international negotiation to establish limits of imports in various categories of specialty steel products. The Committee is aware of and very concerned about the recent surges of imports in several specialty steel product lines within the past year. Imports of some specialty steel products, such as stainless steel wire, have increased dramatically, in many cases as a result of product diversion, dumping, and subsidization. Surges in imports of specialty steel products, such as stainless wire, may cause serious and lasting injury to the efforts of the domestic specialty steel industry to remain internationally competitive. The Committee does not intend for this bill to preclude action through international negotiations to address problems in the specialty steel sector.

SECTION 6: EFFECTIVE PERIOD

Section 6 provides that the enforcement authority under section 5 shall last for no more than five years, and is subject to annual renewal within the five-year period. The enforcement authority, upon taking effect, shall be subject to expiration and renewal each year during the five-year period. The President must determine before the end of that one-year period that the industry is in compliance with the requirements set forth in this section in order for renewal to occur. Such annual determination by the President must be submitted in writing, together with the reasons therefor, to the House Committee on Ways and Means and the Senate Committee on Finance before the end of the one-year period, or else the authority is terminated. Once the authority is terminated, it is not subject to revival.

The annual affirmative determination that the President must make is that the steel industry, taken as a whole, has, during the previous year, committed substantially all of its net cash flow from steel operations to reinvestment in, and modernization of, the industry, and taken sufficient action to maintain its international competitiveness.

Net cash flow is defined in this section as annual net (aftertax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends. This definition is to be interpreted in accordance with generally accepted principles of accounting. Amortization refers to both short-term and long-term debt.

The purpose of this provision is to tie the period of restraint under negotiated restraint agreements and arrangements to a serious and comprehensive commitment on the part of the domestic steel industry to engage in meaningful reinvestment and modernization. The industry's difficulty in competing with foreign-produced steel is in part due to more modern plant and equipment and technologies used by foreign steel producers. For example, continuous casting is a method by which molten steel is poured through a caster directly into semi-finished shapes. Use of this method increases output per worker, reduces energy needs, raises yield, and improves product quality. Approximately 90 percent of

the steel produced in Japan and 60 percent of the steel produced in Europe is continuously cast, while only one-third of the steel produced in the United States is continuously cast. Furthermore, production of steel by means of open hearth furnaces is now considered an outmoded technology, and has long been eliminated in Japan and Europe, yet open hearth capacity in the United States still exist.

This provision requires the industry to commit substantially all of its net cash flow to reinvestment and modernization. This would include investment in new plant and equipment, such as purchase of continuous casters, computerized control systems, and other high-technology equipment and processes; modernization of existing facilities; research and development in new technologies relating to steel production; and other appropriate projects to assist in modernization of the industry. It is not the committee's intention that the President, or the Congress, mandate which types of investments in new plant and equipment are necessary or appropriate for each company, but rather than the President be satisfied that, overall, comprehensive modernization and reinvestment efforts are being taken by the industry.

Such "other appropriate projects" may, at the President's discretion, include certain amounts for working capital, such as for the purpose of buildings up inventories, or for payments on debts relating to capital improvements, as long as the President determines that such expenditures are in furtherance of overall reinvestment and modernization goals and directly related to steel operations. It would not include any investment in any nonsteel-related operations. It may not be used, for example, to finance the acquisition of assets in the oil industry, or any sector other than the steel industry. The overriding concern of the Committee is that the industry be required to plow back all available funds into the operation and modernization of their steel facilities.

In light of the fact that the standard under this section is an industry-wide standard, the relevant inquiry is whether the industry, taken as a whole, has committed substantially all of its net cash flow. The "substantially all" language is to allow the President sufficient flexibility in determining whether the standard has been met if, for example, one small producer has committed less than all of its cash flow for reinvestment and modernization. Furthermore, the Committee recognizes that certain companies within the industry have already committed substantial sums to modernization and do not currently have significant reinvestment or modernization needs. The provision on commitment of cash flow, however, is further subject to a company-specific standard under subsection (b)(2).

Subsection (b)(2) provides that the industry-wide standard in subsection (b)(1)(A) shall not be met unless each major company with significant reinvestment or modernization needs has committed all of its net cash flow (except that required to be committed to retraining under subparagraph (B)) from steel operations during the previous year to meet those needs. The term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1.5 million net tons. The companies meeting this definition include U.S. Steel Corporation, Bethlehem Steel Corporation, National Steel Corporation, Inland Steel Corpo-

ration, Armco Incorporated, Republic Steel Corporation, Rouge Steel Company, and Wheeling-Pittsburg Steel Corporation.

The phrase "significant reinvestment or modernization needs" in this subsection relates to needs that are significant in relation to the size of each major company, and which relate to its ability to remain competitive.

This provision is designed to ensure that all of the major companies, individually, commit all of their net cash flow to reinvestment and modernization. The industry-wide standard in subsection (b)(1)(A) will not be met unless each major company under subsection (b)(2)(A) has also met the standard. Whereas the "substantially all" language in (b)(2)(A) allows for the industry-wide standard to be met even if one small producer may have committed less than all of its net cash flow for reinvestment and modernization, the industry-wide standard will not be met if any major producer with significant reinvestment and modernization needs has not committed all of its net cash flow. The President's determination with respect to the industry-wide cash flow requirement, therefore, must look to company-specific performances as well. The factors to be considered with respect to each major company under subsection (b)(2)(A) are intended to be the same as those involved with respect to the industry as a whole under subsection (b)(1)(A).

The commitment of net cash flow under the company-specific requirement, unlike the industry-wide standard, requires 100 percent of net cash flow to be committed to reinvestment or modernization, unless that company is subject to the minimum 1 percent workers retraining requirement under subsection (b)(2)(B). In such a case, the percentage of net cash flow committed to worker retraining would be deducted from total net cash flow, to determine the percentage of net cash flow required to be committed to reinvestment and modernization for that company.

Subsection (b)(2)(B) requires that, in order for the industry-wide net cash flow standard of subsection (b)(1)(A) to be met, each major company that has, or reasonably anticipates, significant unemployment in steel operations must have committed, during the previous year, at least 1% of net cash flow to worker retraining. The phrase "significant unemployment" as used in this subparagraph relates to permanent, indefinite, or extended unemployment that is not insignificant in relation to the total employment of each major company. For example, short-term lay-offs, for purposes of maintenance, are not meant to trigger this requirement.

The phrase "retraining of workers" as used in this subparagraph relates to various types of retraining and worker assistance programs, including those directed to the enhancement of existing skills and the development of new skills useful within the steel industry, and the development of new skills useful outside of the steel industry. The goal of such retraining programs should be to assist the workers in preparing for and obtaining jobs of comparable worth to the positions they held at the time they were laid off.

Companies may establish and operate their own retraining and worker assistance programs. If the companies provide financial assistance for participation in other retraining programs, however, such financial assistance may not be provided in the form of cash payment to the worker, but must be provided in the form of a

voucher, or a payment directly to the institution sponsoring the retraining program. The requirement in this subsection is not meant to provide cash benefits for retraining, or income maintenance benefits. The trade adjustment assistance authorization extension in section 8 of the bill is to provide the means to use income maintenance benefits while the worker is being retrained under the 1 percent set-aside.

The retraining and worker assistance programs provided under this subsection shall be made available to all current workers and former workers of that major company who were laid off at any time since January 1, 1982.

In addition to the commitment of net cash flow to reinvestment and modernization, the President must determine that, during the previous year, the steel industry, taken as a whole, has taken sufficient action to maintain its international competitiveness, including action to restrain and discipline pricing policies and to control costs of production. In making such determination, the President should look to overall trends in the industry, and not focus on individual company pricing and cost data. The Committee's concern is that the President be satisfied that, during the previous year, the industry has acted responsibly in its pricing policies.

The Committee recognizes that extensive unfair trade practices may have caused price depression in the U.S. market for steel, and that effective enforcement of the national policy for the steel industry and a restoration of fair market conditions may result in higher prices. This provision is not meant to force a ban on all price or wage increases. It is meant, however, to make sure that the industry's actions with respect to pricing policies, and control of labor costs, including management bonuses, are not irresponsible and are consistent with maintaining long-term international competitiveness.

SECTION 7: DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN

Section 7 requires the Secretary of Labor to prepare, in consultation with the Steel Advisory Committee, and submit to Congress within six months a proposed plan of action for assisting workers in communities that are adversely affected by steel imports. Such assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in the industry.

An important source of concern to the Committee is the reduction in employment in the steel industry over the past few years and the dim prospects of increased employment in the industry in the near future. This provision requires the Secretary of Labor to develop, within a time certain, a program to assist dislocated steelworkers. In developing such a program, the Secretary should use existing authorities for providing such assistance, such as increased use of the trade adjustment assistance program under the Trade Act of 1974 and increased use of the dislocated worker programs under the Job Partnership and Training Act, but should also recommend to the Congress such additional statutory authority as may be necessary or appropriate to carry out the purposes of the plan.

SECTION 8: EXTENSION OF ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS

Section 8 extends the authorization for the worker and firm programs of trade adjustments assistance under Title II of the Trade Act of 1974 for two additional years, through September 30, 1987. The Committee feels that the benefits available to workers and firms under the trade adjustment assistance programs are of substantial value, and that workers in the steel industry would derive significant benefit from a reauthorization of these programs for two additional years.

SECTION 9: EFFECTIVE DATE

Section 9 provides that this Act shall take effect on October 1, 1984.

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 6301 was ordered favorably reported by the Committee, with one amendment, by a voice vote.

OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee concludes, on the basis of hearing testimony, discussions among Members, and review of recent actions taken with regard to international trade in carbon and alloy steel products, that additional authority to the President is necessary in order to enforce the President's national policy for the steel industry.

In regard to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 7(a) of rule XIII and with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 6301, as amended, does not provide any new or increased tax expenditures, and the amount of new budget authority is explained in the attached letter from the Congressional Budget Office.

In compliance with clause 7(a) of rule XIII and with clauses 2(1)(3) (B) and (C) of rule XI of the Rules of the House of Representatives, the Committee provides below information furnished by the Congressional Budget Office on H.R. 6301, as amended, and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 1984.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 6301, the Steel Import Stabilization Act, as ordered reported by the House Committee on Ways and Means, September 25, 1984.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 6301.
2. Bill title: The Steel Import Stabilization Act.
3. Bill status: As ordered reported by the House Committee on Ways and Means, September 25, 1984.
4. Bill purpose: To provide authority for enforcing agreements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes.
5. Estimated cost to the Federal Government: Shown below are the estimated budget authority and outlay effects that would result from the enactment of this bill.

[By fiscal year, in millions of dollars]

	1985	1986	1987	1988	1989
Worker assistance:					
Estimated budget authority	0	150	150	0	0
Estimated outlays	0	150	150	0	0
Firm assistance:					
Estimated authorization level	0	25	25	0	0
Estimated outlays	0	25	25	0	0
Total:					
Authorization level/budget authority	0	175	175	0	0
Outlays	0	175	175	0	0

The costs of this bill would fall in budget functions 370 and 600.

Basis of estimate: Section 8 of this bill would extend the current authorization for the Trade Adjustment Assistance program in fiscal years 1986 and 1987. The estimates reflect baseline projections in Trade Adjustment Assistance for workers and firms.

Section 7 of this bill directs the Secretary of Labor to submit to Congress a proposed plan for assisting workers in communities that are adversely affected by imports of carbon and alloy steel products. This plan could result in additional costs, but these cannot be estimated until the plan is developed.

6. Estimated cost to State and local governments: The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Hendrix and Mary Maginniss.

10. Estimate approved by C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 6301 as amended would not have a significant inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

* * * * *

TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

* * * * *

CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

* * * * *

Subchapter C—General Provisions

* * * * *

SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Labor, for each of the fiscal years 1982 through [1985,] 1987, such sums as may be necessary to carry out the purposes of this chapter.

* * * * *

CHAPTER 5—MISCELLANEOUS PROVISIONS

* * * * *

SEC. 285. EFFECTIVE DATE.

Chapter 2, 3, and 4 of this title shall become effective on the 90th day following the date of enactment of this Act and chapters 2 and

3 shall terminate on September 30, **[1985.]** 1987. Chapter 4 shall terminate on September 30, 1982.

* * * * *

DISSENTING VIEWS

H.R. 6301 purports to supplement the President's new policy for the steel industry, which he announced on September 18 and which provides a comprehensive response to the legitimate concerns of the domestic industry without disrupting other U.S. economic interests. Although the bill contains many pronouncements and "findings", the substance of the bill will be extremely difficult to enforce and may trigger a much greater level of imports than anticipated under the President's program.

The centerpiece of the bill is a provision that ties the President's authority to enforce restraint agreements on steel products to an annual determination that the industry has applied substantially all of its net cash flow to modernization of steel mill plants and equipment, and has taken sufficient action to maintain its international competitiveness. The second substantive part of the bill is a requirement that major steel producers with significant unemployment devote at least 1% of their net cash flow to retraining assistance coupled with a two-year extension of the federal Trade Adjustment Assistance Program. Although these goals sound lofty enough, the effect of these provisions are questionable at best.

First of all, government have never had very great success directing investment for private industry. Part of the serious difficulties facing European steel makers is too much government interference; the U.S. will be making a mistake if we follow a similar course. In addition, the President must determine that "each major company" that has "significant modernization needs" must have invested all of its net cash flow in modernization and retraining or the President's authority to negotiate restraints on steel imports falls like a house of cards. With this requirement, there is little flexibility for the President to reward the most competitive industries and to implement an effective, comprehensive steel policy that will result in a healthy industry with vigorous employment.

Secondly, the requirement that major steel firms contribute 1% of earnings to worker retraining, for past and future unemployed, causes concern because it offers no suggestions as to how this retraining is to occur. Must industry set up its own training programs for jobs outside the industry? Do firms merely reimburse vocational or even liberal arts education for its unemployed? The government itself has had difficulty setting up effective retraining programs that are not exploited and that do not have runaway costs. We need only to look at the history of the TAA program. Now we tell the industry they must do it themselves.

Thirdly, the bill provides a sense of Congress statement that unsubsidized competition in our market should result in a foreign share of the domestic market of approximately 17 percent. No justification or technical data is given for this number, so it appears that a political pronouncement only makes that number magically

correct. The President's approach is much more realistic because it is based on market forces, not government intervention, and states as an estimate that a normal level of steel imports, under existing conditions, should be between 18.5 and 20 percent. The program is for five years, and the success of the new policy should result in a markedly improved competitive position for the steel industry both at home and abroad.

H.R. 6301 is obviously a hastily constructed bill that is designed to give a political response to the President's steel initiative. We believe it contributes very little to the effort to improve the competitiveness of the steel industry and the welfare of steel workers. Indeed, it sets a trap for the President's negotiating authority and may, because of a single industry's failure, negate import restraint on behalf of the entire industry.

We urge our colleagues to oppose H.R. 6301.

BILL FRENZEL.
BARBER B. CONABLE, Jr.
BILL ARCHER.
PHIL CRANE.



GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1984

SEPTEMBER 27, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. ROSTENKOWSKI, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 6023]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6023) to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

BACKGROUND AND PURPOSE

Statutory authority for the U.S. Generalized System of Preferences (GSP) is set forth in Title V of the Trade Act of 1974. Title V specifies criteria for determining GSP country and product eligibility and limitations on the extension of GSP treatment. Relatively minor amendments to the statute were made under the Tax Reform Act of 1976 and the Trade Agreements Act of 1979. In the absence of legislation to extend the program, the 10-year statutory authority for the GSP system will expire on January 3, 1985.

The GSP program provides unilateral, non-reciprocal duty-free tariff treatment to about 3,000 articles imported from 140 developing countries and territories to assist their economic development and diversification through preferential market access. The Committee on Ways and Means believes that this program, with the

modifications provided for in H.R. 6023, as amended, is worthy of extension.

The concept of a GSP program was first introduced in the United Nations Conference on Trade and Development (UNCTAD) in 1964. Developing countries asserted that one of the major impediments to accelerated economic growth and development was their inability to compete on an equal basis with developed countries in the international trading system. Through tariff preferences, the developing countries claimed they could increase exports and foreign exchange earnings needed to diversify their economies and reduce dependence on foreign aid.

After several international meetings and long interagency debate, in 1968 the United States joined other industrialized countries in supporting the concept of GSP. As initially conceived, GSP systems were to be: (1) temporary, unilateral grants of preferences by developed countries to developing countries; (2) designed to extend benefits to sectors of developing countries which were not competitive internationally; and (3) designed to include safeguard mechanisms to protect domestic industries sensitive to import competition from articles receiving preferential tariff treatment. In the early 1970's, 19 other industrialized country members of the Organization for Economic Cooperation and Development (OECD) instituted GSP schemes. With the exception of Canada, these countries have already extended their programs through 1990 or beyond, and Canada is expected to do so this year.

In order to implement their GSP systems, the developed countries had to obtain a waiver from the most-favored-nation provision under Article I of the General Agreement of Tariffs and Trade (GATT), which provides that trade among countries must be conducted on a nondiscriminatory basis. A ten-year MFN waiver was granted in June 1971 and provided that GSP schemes must be "generalized, non-discriminatory and non-reciprocal." This waiver was extended in 1979 in the same terms through the "enabling clause" of the so-called Framework Agreement adopted in the Tokyo round of Multilateral Trade Negotiations. The enabling clause, which has no expiration date, provides the legal basis for "special and differential" treatment for developing countries. Congress approved this understanding under the Trade Agreements Act of 1979 (P.L. 96-39).

It is the Committee's opinion that the GSP program is fulfilling its worthwhile objective of accelerating economic growth and development in the developing countries. By providing fair and reasonable access to the U.S. market, it has resulted in increased exports and foreign exchange earnings for such countries. Many of these earnings, in turn, are used by developing countries to purchase U.S. goods for export. This has been accomplished without significant adverse effects on the U.S. economy, as reflected in the data discussed below.

IMPORTS UNDER THE GSP PROGRAM

Although the value of U.S. imports receiving GSP duty-free treatment has grown from \$3.2 billion in 1976 to \$10.8 billion in 1983, imports receiving GSP duty-free treatment constitute only 4

percent of total U.S. imports. GSP duty-free imports constitute only about 11 percent of total U.S. imports of all products from GSP beneficiary countries. Further, the \$10.8 billion imports entering duty-free under GSP in 1983 constituted only 15 percent of total U.S. imports of GSP-eligible products from all sources. Sixty-eight percent of total imports of these products entered from non-beneficiary countries subject to duty.

GSP imports have not resulted in significant increases in the overall import share of the U.S. market. GSP imports averaged only 0.5 percent or less of total U.S. consumption during the 1978-1981 period, as reported by the International Trade Commission (ITC). In only 12 of 650 sectors have GSP imports resulted in significant increases in import penetration. In many areas, increased GSP imports appear to be at the expense of imports from developed countries.

As of 1983, a greater volume of potential GSP-eligible imports were denied than were granted duty-free treatment. Of the \$11.9 billion imports of GSP-eligible articles denied duty-free treatment, imports of \$10.7 billion were articles from particular countries exceeding the statutory "competitive need" ceilings. The remaining imports of \$1.2 billion were excluded as a result of discretionary "graduation" under an administrative procedure of the Office of the U.S. Trade Representative (USTR) based upon (1) the country's general level of development; (2) the country's competitiveness in the particular product; and (3) overall U.S. economic interests, including domestic import sensitivity.

The Committee is concerned, however, that a relatively few advanced developing countries receive most of the GSP benefits, despite the growth of their imports excluded from eligibility annually under the "competitive need" limits and discretionary graduation of competitive articles. The three leading beneficiary countries (Taiwan, Korea, and Hong Kong) receive 52 percent of total benefits. Taiwan and Korea's share has actually increased somewhat since 1976. The leading seven beneficiary countries (including Mexico, Brazil, Singapore, and Israel) account for nearly 75 percent of total GSP imports. The least developed countries receive less than one percent of total GSP benefits. Developed countries and advanced developing countries, rather than other developing countries, usually gain import share following exclusion of competitive products from GSP eligibility.

The table below contains data on total U.S. imports and GSP imports from the leading beneficiary developing countries in 1983 and also lists the 1982 per capita GNP for each such country.

Because of the Committee's concerns about the uneven distribution of GSP benefits among beneficiary countries and particularly the larger concentration of benefits among a small number of more advanced developing countries, H.R. 6023 as amended would make a number of modifications in the program which are designed to promote the distribution of GSP benefits to less advanced developing countries.

U.S. TOTAL IMPORTS AND GSP IMPORTS IN 1983 FROM LEADING BENEFICIARY DEVELOPING COUNTRIES AND 1982 PER CAPITA GNP

[Dollar amounts in millions]

	U.S. imports	GSP eligible	GSP free	Share of GSP free total (percent)	1982 GNP per capita
15 leading beneficiaries:					
Taiwan	\$11,204	\$5,757	\$2,981	27.7	\$2,640
Korea	7,148	2,365	1,524	14.1	1,910
Hong Kong	6,394	3,036	1,102	10.2	5,340
Mexico	16,776	3,859	725	6.7	2,270
Brazil	4,946	1,170	633	5.9	2,240
Singapore	2,868	1,394	512	4.8	5,910
Israel	1,255	512	474	4.4	5,090
Philippines	2,001	386	258	2.4	820
Venezuela	4,938	258	239	2.2	4,140
Argentina	853	315	225	2.1	2,520
India	2,191	227	181	1.7	260
Yugoslavia	386	196	162	1.5	2,800
Peru	1,151	156	142	1.3	1,310
Thailand	967	142	118	1.1	790
Portugal	280	134	107	1.0	2,450
Subtotal of top 15	63,358	19,907	9,383	87.2	
Other beneficiaries	431	2,676	1,382	12.7	
Total beneficiaries	63,789	22,583	10,765	100.0	

SUMMARY OF H.R. 6023, AS AMENDED

H.R. 6023, as amended and ordered reported by the Committee on Ways and Means in the form of a substitute amends Title V of the Trade Act of 1974 to reauthorize the GSP program for an additional 5 years, until January 3, 1990. The bill would also make a number of substantive changes in the program.

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE

Section 1 sets forth the short title of the bill, the "Generalized System of Preferences Renewal Act of 1984" and outlines ten specific purposes of the bill.

SECTION 2. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES

Section 2 would amend section 501 of the Trade Act of 1974 to require the President to consider the effect on export expansion and the extent of a beneficiary developing country's (BDC) competitiveness in granting GSP benefits on any article.

SECTION 3. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA

Section 3 would amend section 502 of the Trade Act to delete Hungary from the list of countries ineligible to receive GSP benefits and to preclude the President from designating any country a BDC which is not taking steps to afford "internationally recognized

worker rights" to its people, unless he determines and reports to Congress that such a designation is in the national economic interest.

Further, in determining whether to designate a country a BDC, the President would be required to take into account three additional discretionary factors: the extent of that country's efforts (1) to protect intellectual property rights; (2) to reduce trade distorting investment practices and policies and barriers to trade in services; and (3) to afford "internationally recognized workers rights" to its workers. The President would be required to report to the Congress on his actions relating to the application of these and the other requirements of sections 501 and 502.

SECTION 4. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES; REGULATIONS

Section 4 would add footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel to the list of existing statutory product exclusions from GSP eligibility and require the Secretary of the Treasury to consult with USTR in promulgating regulations on GSP rules of origin requirements.

SECTION 5. LIMITATIONS ON PREFERENTIAL TREATMENT

Section 5 of the bill would make extensive changes to section 504 of the Trade Act regarding limitations on preferential treatment. The President would be required to conduct a general review of all GSP-eligible products by January 4, 1986 and periodically thereafter, and to report to the Congress by January 4, 1987 on actions he has taken to withdraw, suspend or limit GSP duty-free treatment. Based on the general product review and the country and product eligibility factors that condition GSP benefits, reductions in the competitive need limits of section 504(c) and waivers of such reductions are authorized for various groups of countries as follows:

Countries with a per capita GNP over \$9,000 would be subject to graduation over a two-year phase-down period. After graduation, such countries would not be eligible for any GSP benefits. The President would have no authority to waive these provisions.

For countries with a per capita GNP of \$5,000 or more or which account for 10 percent or more of GSP duty-free imports, the competitive need limits applicable to such country would mandatorily be cut in half on all of its GSP eligible products. However, the President would have authority to waive these cutbacks and restore the original competitive need limits on an article-by-article basis after receiving advice from the ITC. Waivers must be based on a determination that it is in the national economic interest, after considering the factors in sections 501 and 502(c), including efforts by the country to protect intellectual property rights, reduce trade barriers and trade distorting practices, and recognize worker rights.

Finally, for all other countries, the President may reduce the competitive need limits on an article-by-article basis for any article for which such country has "demonstrated a sufficient degree of competitiveness" (relative to other beneficiary developing countries). The President may waive such limits on any article for

which the President has received the ITC advice and made the national economic interest determination described above. However, the total dollar value of such waivers for all such countries in any year cannot exceed 25 percent of total GSP duty-free imports from all BDCs.

As amended by H.R. 6023, the percentage competitive need limit would not apply to articles not produced in the United States as of January 3, 1985, or to imports of articles not exceeding \$5 million. Changes in article designations would occur not later than July 1 of the year following the calendar year for which a determination has been made. Finally, articles which have lost GSP status could not be redesignated for two years.

SECTION 6. 5-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCE AND REPORTS

Section 6 would extend the program until January 3, 1990, and require the President to submit a report on the operation of the program to the Congress by that date, as well as annual reports on the status of worker's rights in each BDC.

SECTION 7. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES

Section 7 would add a new provision to Title V of the Trade Act requiring appropriate U.S. agencies to assist BDC's to assure adequate production of foodstuffs for their citizenry.

SECTION 8. EFFECTIVE DATE

The effective date of the new Act would be January 4, 1985, the day after the expiration of the existing program.

COMMITTEE ACTION

The Subcommittee on Trade of the Committee on Ways and Means held hearings on various proposals to renew the GSP on August 3, 1983 and on February 8 and 9, 1984. Extensive testimony and comments were received from the Administration and industry and foreign trade associations in support of renewal, and from the AFL-CIO, agricultural interests, and leather product and textile and apparel associations in opposition. Subsequently two bills, H.R. 5136 and H.R. 6023, to renew the GSP program were introduced and referred to the Subcommittee.

In a markup session on September 13, 1984, the Subcommittee on Trade ordered H.R. 6023 reported favorably to the full Committee on Ways and Means by voice vote with a substitute amendment representing a compromise incorporating many of the provisions of the the original bills.

On September 26, 1984, the Committee on Ways and Means ordered H.R. 6023 favorably reported to the House by voice vote with an amendment.

SECTION-BY-SECTION ANALYSIS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE

Section 1 sets forth the title of the bill, the "Generalized System of Preferences Renewal Act of 1984", and outlines ten specific purposes of the legislation, to—

- (1) promote the development of developing countries (LDCs);
- (2) demonstrate that trade rather than aid is the best way to promote economic development;
- (3) capitalize on growing LDC markets for U.S. exports;
- (4) consider significant differences in development and competitiveness among LDC's;
- (5) encourage trade liberalization;
- (6) recognize LDC's need for foreign exchange earnings;
- (7) promote trade opportunities among LDC's;
- (8) integrate LDC's into the international trading system;
- (9) encourage LDC's—
 - (a) to eliminate trade and investment barriers in goods and services,
 - (b) to secure, exercise and enforce intellectual property rights,
 - (c) to afford workers internationally recognized workers' rights; and
- (10) address these concerns without adversely affecting U.S. producers and workers and in conformity with the GATT.

In setting forth these purposes, the Committee wishes to emphasize its recognition of the important and necessary role that the GSP program plays in our trading world. It provides benefits not only to developing countries but to developed countries as well. The United States and most other developed countries in the world have recognized their responsibility to assist the developing countries to become active participants in international trade and currently have in effect GSP programs.

The statement of purposes in section 1, however, also emphasizes that the developing nations which receive GSP benefits should, in accordance with the concept of graduation, assume responsibilities as well, if they are going to be fully embraced in the trading community. Among these important responsibilities, commensurate with their development level, are the removal of trade-distorting barriers and impediments to the free flow of goods and services, the protection of foreign nationals from infringements of exclusive intellectual property rights, and the application of internationally recognized worker rights.

SECTION 2. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES

Present law

Section 501 of the Trade Act of 1974 currently requires the President, in proclaiming GSP duty-free treatment on any eligible article from any beneficiary developing country (BDC) to have due regard for three factors: (1) the action's effect on furthering the de-

velopment of BDCs; (2) comparable efforts by other developed countries; and (3) the action's anticipated impact on like or directly competitive products.

Explanation of provision and justification

Section 2 of H.R. 6023 as amended changes the scope of the President's basic authority to extend GSP treatment in a manner which is consistent with administrative practice under present law. It clarifies that in determining whether the economy of a BDC will be expanded as a result of GSP benefits, the President looks at whether such benefits will expand its exports. It also adds a fourth factor to section 501, which is currently included as a matter of administrative practice, requiring assessment of developing countries' competitiveness with respect to an eligible article.

By adding the words, "through an expansion of their exports", to paragraph (1) of section 501, the Committee intends that GSP duty-free treatment be granted in cases where it is clear a BDC's exports are likely to increase if such treatment is granted. One basis for such assessments should be the elasticity of demand for an article given changes in its price, to the extent such information is available. With respect to countries petitioning for benefits, special attention should be given to the extent to which that country is likely to benefit through increased exports as a result of receiving GSP benefits.

The fourth factor added to section 501 should be applied both in estimating a BDC's general economic progress and in determining its competitive ability in comparison to competing U.S. and third country industries. BDC's world and U.S. market shares, volumes and values of their exports, and their ability to penetrate foreign markets absent duty-free treatment should be considered. The Committee strongly believes that, absent showings that a BDC has limited economic strength, it should not receive GSP benefits on articles with respect to which it has demonstrated competitiveness. This is especially the case where a BDC's competitive advantages result primarily from subsidies or other unreasonable or unfair trade practices.

The factors enumerated in section 501 are intended as guides to the President's overall conduct of the program. The amendments made by section 2 emphasize Congressional intent that the existing administrative practice of discretionary graduation and assessment of GSP developmental benefits in terms of increased exports continue to be included in the petition process described later in this report under the section entitled "Administration of the GSP Program." Further, the Committee expects these factors to play a major role in the general review of eligible articles required by section 5 of the bill, in which new limitations are placed on preferential treatment. The four factors will also be considered when decisions are made under section 5 with respect to waivers of competitive need limitations.

SECTION 3. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA

Present law

Section 502 currently sets out both the procedures for designating countries as BDCs and the conditions for such designation. The President must notify the Congress of his intention and the considerations entering his decision before designating any beneficiary country. Before terminating the designation of any BDC, the President must provide the Congress and the country concerned at least 60 days advance notice of his intention, together with the reasons. The President must withdraw or suspend the designation if he determines the country no longer meets the conditions for designation.

The President may designate an association of countries which is a free trade area or customs union or contributing to comprehensive regional economic integration for treatment as a single BDC. The Andean Group, the ASEAN, and the CARICOM associations of countries have been designated for treatment as single countries under the program.

Section 502 also establishes conditions for the designation of countries, some of which are mandatory and others of which are discretionary. With regard to the mandatory conditions, the President is prohibited from designating any country for GSP benefits which is a developed country listed in section 501(b) and below:

Australia, Austria, Canada, Czechoslovakia, European Economic Community member states, Finland, Germany (East), Hungary, Iceland, Japan, Monaco, New Zealand, Norway, Poland, Republic of South Africa, Sweden, Switzerland, and Union of Soviet Socialist Republics.

Further, the President is prohibited from designating any country for GSP benefits which:

1. is a communist country unless (a) its products receive most-favored-nation (MFN) treatment; (b) it is a GATT Contracting Party and a member of the International Monetary Fund (IMF) and (c) it is not dominated or controlled by international communism;
2. has nationalized or expropriated U.S. property, unless the President determines and reports to Congress there is adequate compensation, negotiations are underway to provide compensation, or a dispute over compensation is in arbitration.
3. fails to recognize as binding or fails to enforce arbitral awards in U.S. favor;
4. affords "reverse preferences" with a significant adverse effect on U.S. commerce;
5. is a member of OPEC or other arrangement and withholds supplies of vital commodity resources or raises their price to unreasonable levels, causing serious disruption of the world economy. Under a 1979 amendment, countries which entered bilateral product-specific MTN agreements with the United States prior to January 3, 1980, are exempt from this condition unless they subsequently interrupt or terminate oil supplies to the United States;

6. does not take adequate steps to cooperate in preventing illegal drug traffic into the United States; or

7. aids or abets international terrorism.

The President may waive conditions (4), (5), (6), and (7) if he determines and reports with reasons to Congress that designation of the country is in the national economic interest.

Section 502(c) sets forth several discretionary factors which the President must "take into account" in designating BDCs.

They are—

1. an expressed desire of the country to be designated;
2. the country's level of economic development;
3. whether other major developed countries extend GSP to the country; and
4. the extent to which the country has assured the United States it will provide "equitable and reasonable access" to its markets and basic commodity resources.

With regard to item 4 (section 502(c)(4)), it is noted that the Committee recognizes and approves of the President's interpretation of the current statute. The interpretation of this provision has been that, where section 502(c)(4) is considered, BDC's export practices are also to be taken into account in determining what action may be appropriate. The Committee understands that use of export subsidies and production subsidies affecting competitiveness in world markets is considered where required by reference to section 502(c)(4). This interpretation is of particular importance in emphasizing that GSP benefits should be granted on the basis of economic ability rather than as a reward for unfair or unreasonable trade practices.

Explanation of provision and justification

Section 3 makes several amendments to section 502 relating to BDC designation criteria. First, subsection (b) would amend the list of developed countries in section 502(b) which are ineligible to receive benefits by deleting Hungary. The purpose of the list of countries in section 502(b) is to prevent developed countries from receiving the benefits of GSP. However, Hungary's per capita GNP of \$2,270 in 1982 (according to the World Development Report) is less than the per capita GNP of several other BDC's under the GSP program. While per capita GNP is not necessarily an adequate or sole measure of development level, the Committee does believe that these circumstances warrant deletion from the list of countries excluded from GSP by statute. The Committee also notes with approval that Hungary is a member in good standing of both the GATT and the IMF and currently receives MFN treatment on its exports to the United States.

The fact that Hungary has been deleted from the list, however, should not be interpreted as an indication of Congressional intent that it should necessarily receive GSP benefits or that it should be regarded as a developing country in other contexts. The Committee recognizes that Hungary has considered itself to be a developed country in the past, and in fact was one of the first countries to implement a GSP scheme in 1971. Should Hungary decide to apply for GSP status, the President shall apply the standards of section

501 and 502 and make a decision on its application solely on the merits of the case which Hungary presents.

Subsection (b) would further amend section 502(b) by adding the phrase "including patents, trademarks, or copyrights" to paragraphs 4 (A), (B) and (C) to insure that these mandatory provisions relating to a country's nationalization, expropriation, or seizure of property also apply equally to these intangible property rights as well. The Committee amended this provision to clarify that repudiation or nullification by a foreign government of patent, trademark, or other intellectual property rights which has the effect of nationalizing or expropriating U.S. property would lead to disqualification. If the government repudiates a patent or trademark right through legislative or administrative means, and if such repudiation has the effect of a nationalization or expropriation, then designation could not occur unless the President makes a determination that such a designation would be in the national economic interest. It is noted that this amendment relates only to actions by a government which would have the effect of nullifying or repudiating patent, trademark, or other intellectual property rights. An amendment discussed below relates to whether the government has provided satisfactory protection against private acts infringing intellectual property rights.

Subsection (b) would also add a new mandatory condition for designating a BDC. Under new condition (8), a country may not be designated a BDC "if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country)". Like conditions (4) through (7) in existing section 502(b), the President may waive this condition if he determines and reports with reasons to Congress that designation of a particular country is in the national economic interest. As defined in subsection (a), the term "internationally recognized worker rights" includes—

- (A) the right of association;
- (B) the right to organize and bargain collectively;
- (C) a prohibition on the use of any form of forced or compulsory labor;
- (D) a minimum age for the employment of children; and
- (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

The Committee believes that promoting respect for the internationally recognized rights of workers is an important means of ensuring that the broadest sectors of the population within BDCs benefit from the GSP program. The capacity to form unions and to bargain collectively to achieve higher wages and better working conditions is essential for workers in developing countries to attain decent living standards and to overcome hunger and poverty. The denial of internationally recognized worker rights in developing countries tend to perpetuate poverty, to limit the benefits of economic development and growth, to narrow privileged elites, and to sow the seeds of social instability and political rebellion.

Furthermore, the Committee is concerned that the lack of basic rights for workers in many LDCs is a powerful inducement for cap-

ital flight and overseas production by U.S. industries. The tremendous disparity in labor rights between many American workers and the absence of those rights for workers in many developing countries is a growing factor in the competitive decline of many of our basic industries.

There already exists a well-established policy in U.S. foreign assistance programs of denying aid or loans to LDCs found to have gross violations of political rights. The Committee deems it appropriate that GSP benefits also be extended with a view toward promoting respect for the basic rights of workers within BDCS.

The United States has embraced labor rights, in principle, as well as political rights for all of the people of the world upon adoption of the Universal Declaration of Human Rights in 1948. The Declaration specifically affirms for each person the right to a job, the right to form and join unions, and the right to an adequate standard of living. It is not the expectation of the Committee that developing countries come up to the prevailing labor standards of the United States and other highly-industrialized developed countries. It is recognized that acceptable minimum standards may vary from country to country. However, the Committee does expect the President, in granting duty-free access to the U.S. market, to require that any developing country specifically demonstrate respect for the internationally recognized rights of its workers described in section 3(a) of the bill.

Finally, subsection (c) would add three additional factors as paragraphs (5), (6), and (7) to the discretionary criteria under section 502(c) which the President takes into account when determining whether to designate any country a BDC, and in all other determination regarding country or product eligibility:

(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

(6) the extent to which such country has taken action to—

(A) reduce trade distorting investment practices and policies (including export performance requirements); and

(B) reduce or eliminate barriers to trade in services; and

(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

The Committee strongly believes that countries wishing to reap the benefits of preferential duty-free access to the U.S. market must fulfill international responsibilities in these three important areas.

In order to determine whether a country is providing "adequate and effective means" regarding intellectual property, the President should consider, among other factors, the extent of statutory protection for intellectual property (including the scope and duration

of such protection), the remedies available to aggrieved parties, the willingness and ability of the government to enforce intellectual property rights on behalf of foreign nationals, the ability of foreign nationals effectively to enforce their intellectual property rights on their own behalf, and whether the country's system of law imposes formalities or similar requirements that, in practice, are an obstacle the meaningful protection for foreign nationals not imposed on domestic concerns. The term "foreign nationals" is intended to refer to U.S. nationals and nationals of other countries with whom U.S. nationals have a contractual or similar relationship with respect to the sale or licensing of intellectual property, for example, a non-U.S. licensee of the rights owned by a U.S. national.

The Committee recognizes that the new paragraph (5) does not provide a single, objective test for determining whether the law of a foreign country provides adequate and effective protection for intellectual property. This is not a standard susceptible to such a simplistic test, however, since there are a wide range of acceptable standards which vary from country to country. It is anticipated, however, that the President will consult with appropriate parties, including the U.S. Copyright Office and the Patent and Trademark Office, to fashion a set of general guidelines to be applied consistently and objectively.

The Committee is extremely concerned about the growing problem of counterfeiting which is costing American jobs, threatening the health and safety of consumers, and undermining the ability of American businesses to compete in world markets. According to a recent report by the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce (Unfair Foreign Trade Practices & Stealing American Intellectual Property: Imitation is not Flattery; Committee Print 98-V; February 1984, pg. 1), "the direct loss in sales to American companies for counterfeit merchandise runs into the tens of billions of dollars".

Nor is the problem restricted to sales in the U.S. market. The report goes on to say, at page 2:

Although violating U.S. patents, trademarks or copyrights, many counterfeit products manufactured in foreign countries never reach the U.S. market. It is difficult enough for a U.S. company whose product is being imitated to stop sales in the United States. In cases of foreign market sales, however, it is practically impossible for American firms to stop commercial pirates. Such laws as may exist to protect intellectual property rights in developing nations, where most of the activity takes place, are usually inadequate. Moreover, enforcement is unaggressive or non-existent, especially against a local company. The result is that American companies lose billions of dollars of sales in both the foreign and U.S. domestic market.

The Committee urges the President to fully utilize the authority provided for in this legislation to seek the cooperation of BDCs under the GSP program to combat this serious problem.

With regard to new paragraph (6), the Committee is particularly concerned about the severe adverse impact on international trade in goods and services that has resulted from a number of practices

of developing countries. For example, the Committee is concerned that U.S. export opportunities, which often are generated by U.S. investments abroad, are increasingly thwarted by requirements of host countries that U.S. firms limit their imports from the United States or that, as a condition of approval of an investment, firms agree to performance requirements; for example, producing a certain percentage for exports. Such measures are replacing more traditional forms of import restrictions throughout the world as serious trade barriers. Similarly, the proliferation of barriers to trade in services, such as restrictions on the establishment and operation of enterprises providing services and the denial of national treatment, needs to be addressed in this increasingly important sector of international trade. The Committee considers it to be entirely appropriate to raise these trade barriers as issues in applying section 502(c)(4) to country designation and waive decisions under section 504(c).

Finally, with regard to new paragraph (7), the Committee urges the President to consider the principles discussed earlier with regard to internationally recognized worker rights in designating countries as BDC's. The reference on both section 502(b)(8) and section 502(c) to any designated zone in the particular country is intended to ensure that consideration of whether a particular country conforms to these provisions is based upon the existence of substantial uniformity between the conditions relating to internationally recognized worker rights in such zones and such rights otherwise applicable to workers in that country. The purpose of the provision is to ensure that designated zones are not used by the country as a means to circumvent the designation criteria on workers rights and to ensure the application of these criteria to the country as a whole.

SECTION 4. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES; REGULATIONS

Present law

Section 503(c) of the 1974 Trade Act prohibits GSP duty-free treatment from being granted to the following articles:

- (a) textiles and apparel articles subject to textile agreements;
- (b) watches;
- (c) import-sensitive electronic articles;
- (d) import-sensitive steel articles;
- (e) footwear; and
- (f) import-sensitive semi-manufactured and manufactured glass products.

The President must also exclude any other articles he determines to be import sensitive in the context of GSP.

The Secretary of the Treasury has general authority, pursuant to general headnote 11 of the TSUS, and 19 U.S.C. 66, 1623 and 1624 to issue rules and regulations governing the admission of imported articles.

Explanation of provision and justification

Section 4 would substitute a new subparagraph (E) in the list of import-sensitive articles which are excluded by statute from eligi-

bility for GSP treatment by expanding the current exclusion of certain footwear to encompass footwear, handbags, luggage, flat goods, work gloves and leather wearing apparel which were not eligible articles for purposes of GSP on April 1, 1984. This exclusion is identical to that in the Caribbean Basic Economic Recovery Act. The articles encompassed by this amendment are classified under the following items of the Tariff Schedules of the United States: 700.05—700.27, 700.29—700.53, 700.56—700.83, 700.95, 705.35, 705.85, 705.86, 706.05—706.16, 706.21—706.32, 706.34, 706.36, 706.38, 706.41, 706.43, 706.55, 706.62, or 791.76.

These items already are excluded administratively under the program, but the Committee determined that to prevent their possible designation in the future, a statutory exception was warranted similar to that accorded certain other products.

With respect to the current exclusion for "import-sensitive steel articles" in subparagraph (D) of section 503(c), the Committee urges the USTR to interpret this provision to include articles of the kinds subject to ITC import relief investigation numbered TA-201-51, and steel articles provided for under TSUS items 652-97 and 653.00. The Committee is distressed that many fabricated steel products such as components of bridges and high-rise buildings, are being imported duty-free under the GSP from BDCs such as Korea, despite the fact that such imports are severely impacting the U.S. steel industry, particularly on the West Coast.

Section 4(b) of the bill would further amend section 503 of the Trade Act by adding a new paragraph (d) providing for the Secretary of the Treasury to prescribe regulations governing GSP rule-of-origin requirements "after consulting with the U.S. Trade Representative." This amendment was adopted, at the request of USTR, because the Committee believes that since that agency is responsible for the administration of the GSP program, as well as the Caribbean Basin Initiative (CBI) program, which has similar rules-of-origin requirements, it should have the opportunity to provide input to the Secretary of the Treasury in prescribing regulations carrying out the rules-of-origin requirements of this program. It is hoped that this input would help to ensure the uniform application of the rules-of-origin requirements for both the GSP and CBI programs.

This amendment only provides for a consultative process, however. The Committee recognizes that the Department of the Treasury, and more specifically the U.S. Customs Service, is responsible for regulating the importation of goods into the United States. Therefore, under this amendment, the Secretary of the Treasury will continue to have the ultimate responsibility for the final content of these regulations.

SECTION 5. LIMITATIONS ON PREFERENTIAL TREATMENT

Present law

The President has general authority under section 504(a) to withdraw, suspend, or limit the application of GSP duty-free treatment and restore MFN duties with respect to any article or any country after considering the factors in section 501 and 502(c). He may not, however, establish intermediate rates of duty.

In addition to the removal of particular articles based on their import sensitivity, there are two ways in which GSP treatment of particular products from particular BDCs has been withdrawn: (1) automatic exclusion under the statutory "competitive need" limits; and (2) discretionary graduation.

The basic purpose of the statutory competitive need limitations set forth under section 504(c)(1) of present law are: (1) to establish a benchmark for determining when a BDC's products are able to compete in the U.S. market and therefore are no longer in need of preferential tariff treatment; and (2) to reallocate GSP benefits to less competitive producers. The limits have also provided some measure of protection to domestic producers of like or directly competitive products.

If imports of a particular product from a particular BDC exceed either (1) a value level adjusted annually in relation to changes in the U.S. gross national product (\$25 million in 1974 and equivalent to \$57.7 million in 1983) or (2) 50 percent of the total value of U.S. imports of the article from all sources in a particular calendar year, GSP treatment is automatically removed entirely on that article from that country not later than 90 days after the close of that calendar year. The article may be redesignated for GSP treatment in a subsequent calendar year if imports of the product from that country have fallen below the competitive need ceilings then in effect.

There are three statutory circumstances in which the competitive need limit may not apply: First, if the President determines that a product like or directly competitive with a particular GSP product was not produced in the United States on January 3, 1975, then that GSP product is exempt from the 50-percent, but not the dollar value, competitive need limit. Second, the President has discretionary authority under 1979 amendments to the program to waive the 50-percent competitive need ceiling for products for which total U.S. imports are de minimis, i.e., not more than \$1 million during the preceding calendar year adjusted annually to reflect the growth in U.S. GNP (\$1.37 million in 1983). Third, the President may waive both competitive need limits for a particular country based on a determination that:

- (1) there has been a historical preferential trade relationship between the United States and such country;
- (2) there is a treaty or trade agreement in force covering economic relations between such country and the United States; and
- (3) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

This waiver authority, which was designed for possible exemption of the Philippines, has never been utilized.

The second way in which a product may lose its GSP eligibility is through discretionary graduation pursuant to section 504(a). Discretionary graduation, as outlined in the President's "Report to the Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences" (transmitted April 17, 1980, printed as WMCP: 96-58), was initiated by USTR as an administrative procedure in March 1981. It is a product-by-product consideration based

on (1) the general economic development level of the BDC; (2) the competitive position of the BDC with respect to the particular product; and (3) overall economic interests of the United States, including the import sensitivity of the sector and the extent to which GSP imports from the BDC may have adversely affected U.S. producers and workers. In addition, discretionary graduation is based on a consideration of the four country eligibility factors listed in section 502(c).

Discretionary graduation is designed to promote the continued graduation of the more advanced developing countries from GSP benefits in products where they have demonstrated competitiveness. In addition, discretionary graduation is intended to promote a shift of benefits to the less advanced and less competitive developing countries.

The following table demonstrates the effect on GSP duty-free import coverage of product exclusions from particular countries under the competitive need ceilings and discretionary graduation:

PRODUCT GRADUATION UNDER THE GSP

[Dollar amounts in millions]

Year	Discretionary graduation	Competitive need exclusions	Total exclusions	GSP-free imports	Ratio of exclusion to GSP imports (percent)
1980.....	\$443	\$5,600	\$6,043	\$7,328	0.82
1981.....	651	6,782	7,433	8,395	.89
1982.....	900	7,108	8,008	8,426	.95
1983.....	1,211	10,661	11,872	10,765	1.11

Note: Data shown for graduation and competitive need exclusions pertain to actions implemented in March of the following year.

Explanation of provision and justification

Section 5 of H.R. 6023 as amended would retain the basic competitive need limitations of present law, and would provide additional authority to reduce the benefit limits further. In addition, the amendments proposed in section 5 would authorize the President to waive the limits in recognition of BDC action on trade matters of concern to the United States. The new authorities are designed to further the original aims of the Congress to achieve a broad distribution of GSP benefits to countries most in need. At the same time, they encourage developing countries to participate more fully in the world economic system by, for example, reducing trade restrictions to their markets, providing greater protection of U.S. intellectual property rights, and improving working conditions for their citizens.

Subsection (a) amends section 504(a) to require the President to submit a detailed report to the Congress by January 4, 1987, discussing the application of sections 501 and 502(c), as amended, including the extent to which the factors provided for therein are being complied with by individual countries. The report also must include a complete discussion of any action the President has taken under this section to withdraw, suspend, or limit GSP benefits to any country that has failed to adequately take into account the actions described in section 502(c).

It is the expectation of the Committee that the President will vigorously exercise the authority under section 504 as amended to withdraw, suspend, or limit GSP benefits with respect to countries which do not meet the new criteria under section 502. Where valid and reasonable complaints are raised by U.S. firms concerning a BDC's market access policy or protection of intellectual property rights, for example, it is expected that such interests will be given prominent attention by the President in deciding whether to modify GSP duty-free treatment for that country. The report would advise the Congress on the measures the President has taken in response to such valid and reasonable complaints.

Section 5(b) of the bill, as amended, would retain the basic competitive need standards currently provided for in section 504(c)(1), but would make substantial changes in their application to particular countries in order to encourage a more equitable distribution of GSP benefits among countries based upon their relative development level and competitiveness in particular products. First, subsection (b) amends section 504(c) by adding a new paragraph (2) to require a general review by the President on all GSP-eligible articles based on the country and product eligibility considerations of sections 501 or 502(c). This review, which is distinct from the annual product reviews that will continue as under existing law, must be completed not later than January 4, 1986 and periodically thereafter. The general review will seek to identify articles in which a BDC has demonstrated, compared to other BDCs, that it has achieved sufficient competitiveness in a particular product so that it is appropriate to trigger faster graduation from benefits.

The following factors in section 501 or 502(c), as amended by the bill, would govern the President's determinations in the general product review:

- (1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;
- (2) whether or not the other major developed countries are extending generalized preferential tariff treatment to such product or products;
- (3) the anticipated impact of such action on United States producers of like or competitive products;
- (4) the extent of BDC's competitiveness with respect to eligible articles;
- (5) an expression of the country's desire for GSP treatment;
- (6) the economic developmental level of individual BDCs;
- (7) the extent to which the BDC has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;
- (8) the extent to which U.S. intellectual property rights are recognized;
- (9) the extent to which the country has taken action to reduce or eliminate barriers to trade and services; and
- (10) the extent to which the country has taken steps to afford internationally recognized rights to its workers.

On the basis of this review of product competitiveness and the additional new statutory standards pertaining to a country's relative development level, the President will be authorized to make

"cutbacks" in the competitive need limits as described below. These reductions, which are mandatory for some countries and discretionary for others, would result in lower dollar and percentage competitive need limits.

At the same time, in order to promote further the goal of promoting important U.S. trade interests, paragraph (6) amends section 504(c) to allow the President to waive the application of competitive need limits as described below. For some countries this waiver authority would only allow restoration of benefits which have been reduced by procedures described above and would not permit waiver beyond the competitive need limits in present law. For others, it provides the latitude to waive competitive need limits and expand GSP benefits on a product-by-product basis. These waivers can be made if the following circumstances are met:

- (1) the President receives the advice of the ITC on whether any U.S. industry is likely to be adversely affected by the proposed waiver;

- (2) the President determines, based on the ITC advice and the considerations described in section 501 and 502(c) as amended, that the waiver is in the U.S. national economic interest; and

- (3) he publishes this determination in the Federal Register.

The purpose of granting the President this waiver authority is to provide him additional tools to achieve U.S. trade interests with BDCs, such as greater market access for U.S. exports, greater discipline in protecting intellectual property rights, and improvements in workers rights. However, in order to prevent abuse of this discretionary waiver authority and to insure that GSP benefits are dispersed among BDCs which truly need them, several restrictions on the President's waiver authority are included. The bill as amended provides varying degrees of cutback and waiver authority of three different groupings of countries.

None of these changes would go into effect before January 3, 1986. This one-year period from date of enactment of the bill will give the President the opportunity to conduct the initial general product review required under section 504(c)(2) as amended, and to discuss with individual BDCs the potential application of the new designation criteria under section 502(b) and (c). This period is also necessary for adjustment by BDCs and the trading public.

Per capita GNP below \$5,000 and GSP share below 50 percent.— For any country which had a per capita income of less than \$5,000 and accounted for less than 10 percent of total U.S. GSP duty-free imports in the preceding calendar year, the President may effectively reduce the competitive need limits by one-half for any article from such country which he determines to meet the test under the general product review of "sufficient degree of competitiveness". This would be accomplished by changing the base year for adjusting the dollar limit in sections 504(c)(1)(A) from "1974" to "1984", thus reducing the absolute amount from the present \$57 million to \$25 million, and by reducing the percentage limit in section 504(c)(1)(B) from 50 percent to 25 percent. Any such article from such country for which imports into the United States in any calendar year exceed \$25 million (indexed annually to changes in the U.S. GNP) or exceed 25 percent of total U.S. imports of the article,

would be ineligible for GSP duty-free treatment in subsequent years unless imports fall below these new competitive need limits for two consecutive years.

The President may waive the competitive need limits on any article, except that the total dollar value of all waivers for such countries for any calendar year may not exceed 25 percent of the total value of GSP duty-free imports from all BDCs in the previous calendar year. Only those waivers on articles from countries with a per capita GNP of below \$5,000 and which accounted for less than 10 percent of duty-free GSP imports will be assessed against this 25 percent total waiver authority, and such waivers shall only be counted to the extent they exceed the present competitive need limitations on such articles under section 504(c)(1) (i.e., \$57 million/50 percent). Waivers under the *de minimis* and "no U.S. production" criteria in section 504(d) shall not be included in this calculation.

Each such waiver must be based on the national economic interest determination by the President required in new paragraph (5) of section 504(c). This determination must be based on ITC advice, and consideration of the factors in section 501 and 502(c), including efforts by the country to protect intellectual property rights, reduce trade barriers and trade distorting practices, and recognize workers rights.

Per capita GNP \$5,000 or more or GSP share of 10 percent or more.—For any country which the President has determined either had a per capita GNP of \$5,000 or more or accounted for more than ten percent of total GSP duty-free imports in the preceding calendar year, the competitive need limits applicable to that country must be cut in half for all of its GSP-eligible products (i.e., to the 1974 level of \$25 million and from 50 percent to 25 percent as described above).

The President may waive this cutback in competitive need limits for any article from such a country, after taking into account the ITC advice and making the national interest determination under new section 504(c)(5) as described above, and restore the present limits (i.e., up to \$57 million/50 percent). However, under no circumstances may the competitive need limits for any article be increased beyond the levels now authorized under section 504(c)(1).

Per capita GNP \$9,000 or more.—Finally, if a country reaches a level of \$9,000 per capita GNP in any calendar year (none have currently attained this level), all of that country's products would be graduated from receiving any GSP benefits over a two-year period under new paragraph (4) of section 504(c). The competitive need limits on those products subject to the present limits (i.e., \$57 million/50 percent) during the calendar year when the \$9,000 GNP level is attained, would be cut in half (i.e., \$25 million/25 percent) for two years and then completely removed from GSP eligibility. Articles which had been subject to the reduced (\$25 million/25 percent) limits during the year in which the \$9,000 level was reached would remain eligible for GSP benefits at these competitive need limits for one year, and then would be ineligible for GSP benefits in the following year. Thus after a two-year period, the country would be completely graduated and none of its articles would be el-

igible for GSP benefits. The President would have no waiver authority for these countries.

It is the Committee's belief that countries which reach a per capita GNP level of \$9,000 should be considered to be developed countries for purposes of the GSP program and therefore no longer in need of the benefits of preferential duty-free treatment.

The competitive need and waiver authorities under section 5 of the bill are summarized as follows as they amend present law and apply to particular countries:

SUMMARY OF COMPETITIVE NEED AND WAIVER AUTHORITY IN H.R. 6023, AS AMENDED

Present law		H.R. 6023, as amended	
Country graduation.....	No provision.....	Countries with GNP \$9,000 or over phased from GSP over 2-yr period.	
Product graduation:			
Countries with 10 percent GSP share or \$5,000 GNP.	If imports of article from country exceeds competitive need limits of \$57.7 million or 50 percent of total U.S. imports of article in preceding calendar year, GSP ceases on that article from that country 90 days thereafter.	Cutback: ¹ Mandatory on all articles to \$25,000,000 or 25 percent limits.	Buy Back: ² May restore present \$57.7 million or 50 percent limits on article basis. ¹
All other countries.....	do.....	Discretionary article-by-article to \$25,000,000 or 25 percent limits depending on competitiveness. ²	Same, except may also exceed these limits on maximum 25 percent of total GSP annual imports. ¹

¹ This waiver must be based on a determination, after receiving advice from the ITC, that it is in the national economic interest, after considering the factors in secs. 501 and 501(c). Such factors include efforts by such country to protect intellectual property rights, reduce trade barriers and trade distorting practices, and recognize worker rights.

² In determining whether to exercise discretion, the President must consider the factors described in sec. 501 or 502(c) and determine that the BDC has demonstrated a sufficient degree of competitiveness (relative to other BDC's) with respect to any such article.

Other limitations.—H.R. 6023, as amended, would continue with modification two other provisions of existing law relating to limitations on preferential treatment. Under the bill, the competitive need limit in section 504(c)(1)(B) (i.e., the 50 percent limit) would not apply to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985 (an updating from January 3, 1974 in present law). Nor would the 50 percent ceiling apply to any article for which the total imports of such article in the previous calendar year did not exceed \$5 million, as adjusted for growth in GNP (present law is \$1 million).

Section 5(b) of the bill would also maintain the provision under section 504(c)(4) of present law as a new paragraph (6) that authorizes the President to waive competitive need limits in strictly limited circumstances that, in effect, are intended to be applicable solely to the Philippines.

New paragraph (7) of section 504(c) amends paragraph (2) of present law, which authorizes the President to restore preferential treatment withdrawn because import levels reached the ceilings set by the competitive need limits. As amended, redesignation can occur, subject to the provisions of sections 501 and 502, only if imports of such articles do not exceed the applicable limitations

during the preceding two-calendar-year period, rather than the one-year period provided for under present law.

A final amendment to section 504 would provide that all changes in article designations and competitive need limits would occur not later than July 1 of the year following the calendar year for which a determination has been made, rather than within 90 days after the close of the calendar year under section 504(c)(1) of present law. This change is intended to allow the U.S. Customs Service and the trading public sufficient time to adjust to modifications in product eligibility and competitive need limits and for the ITC to publish such changes in the tariff schedules. The purpose of this change is to provide advance notice of modifications in the program before they actually go into effect; it is not intended to extend the time period for the President to make and announce his decisions. Therefore, the Committee expects that the President will publish his decisions with respect to GSP article or country designations, competitive need limitations, or waivers thereof by April 1 of each year so that the remaining 3-month period to July 1 may be used by all parties to prepare for the implementation of the published changes.

SECTION 6. 5-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES AND REPORTS

Present law

The authority for the President to grant GSP duty-free treatment under Title V of the Trade Act terminates by statute (section 505(a)) on January 3, 1985. Section 505(b) required the President to submit a report to the Congress on the operation of the program within 5 years after the enactment of the Trade Act. The President did submit such a report to the Congress within the prescribed time limits.

Explanation of provision and justification

Section 6 would amend section 505 of the Act to provide for a 5-year extension of the program, to January 3, 1990. The amendments to section 505 would require the President to submit to the Congress a full and complete report on operation of the program by that date, as well as annual reports on the status of internationally recognized worker rights within each beneficiary developing country. This report on program operation should also comment on changes in the administrative procedures described below, and on the program's impact on U.S. producers of like or directly competitive products and BDC exports.

With respect to the reports on workers rights, it is noted that the President already submits an annual report to the Congress under section 116(d) of the Foreign Assistance Act of 1961 prepared by the Departments of State and Labor on human rights. It is the Committee's intent that the information required under section 505(c) be included as a separate section in that annual report. Furthermore, the report should address specifically the extent that each of the rights included in the statutory definition of internationally recognized worker rights is respected within each BDC.

SECTION 7. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES

Section 7 would add a new section 506 to the Trade Act of 1974 directing the appropriate U.S. agencies to assist beneficiary developing countries in the development and implementation of measures to assure that agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizens.

SECTION 8. EFFECTIVE DATE

Section 8 provides that the amendments made by this Act will take effect on January 4, 1985, the day after the termination date of the authority for the current program.

Administration of the GSP program

In order to administer the requirement under section 503 of present law that GSP duty-free treatment not apply to any import-sensitive articles and to consider articles for possible addition to the GSP eligibility list, the USTR established by regulation an annual petition review procedure under the interagency Trade Policy Study Committee (TPSC). USTR has applied its same administrative procedure to consideration of petitions requesting discretionary graduation since its initiation in 1981 to accompany statutory graduation under the competitive need limits.

These regulation provide that any interested party may petition to have articles added to, or removed from, the GSP list. In addition, the TPSC may consider modifications to the GSP list on its own motion. The GSP Subcommittee of the TPSC is responsible for administering the GSP program and conducting the initial review of all petitions. The petitioner is responsible for providing a detailed economic analysis to support the request for product modification. Petitions are required to include, to the extent possible, information on U.S. and developing country production, employment, costs, and profits. Public hearings on petitions are announced in the Federal Register and are held before the GSP Subcommittee.

In determining whether to grant petition requests to add products to the GSP list, the interagency committees take into account the legally required advice from the ITC, the views of all interested parties, and background studies prepared by the member agencies of the TPSC. Special attention is paid to the potential impact of duty-free treatment on U.S. producers of like or directly competitive products as well as developing countries' efforts to diversify their production and increase their export earnings. In assessing import sensitivity of the item in the context of the GSP, capacity utilization and profits in the U.S. industry are taken into account. Also considered are the level and growth of imports from developed and developing countries, the extent to which the item traditionally has been excluded from trade negotiations, and whether the U.S. industry has been injured by unfair trade practices. Interagency reviews culminate with the USTR transmitting advice on product designations and removals to the President.

The Committee expects this administrative process for annual review of articles to continue under the new Act. While section

504(c)(2)(A), as added by the bill, would require a periodic general product review for purposes of applying competitive need limits, interested parties should retain the right under the new program to petition annually for addition of individual products to, or deletion of individual products from, the list of GSP eligible articles under section 503.

The Committee also expects USTR to continue its practice of discretionary graduation of countries with respect to GSP eligibility for particular products in which they have demonstrated competitiveness even though competitive need limitations have not been exceeded. While discretionary graduation would normally be considered as part of the periodic general product review process, the Committee expects the right to be maintained under the annual product review procedure of a domestic industry to seek graduation of a product on the basis of a country's competitiveness with regard to that product as well as on the basis of the import sensitivity of the domestic product sector.

The Committee also intends that the factors enumerated under section 501, as amended by the bill, apply with respect to consideration of petitions, as well as to changes in product eligibility considered by the USTR in administering the amendments under section 5 of the bill. While intending the President to have continued flexibility in operating the GSP petition process, the Committee believes several objectives in the petition process must continue to be pursued.

First, the Committee recommends that a standard petition form be developed for GSP requests. That petition should not discriminate among parties affected by the program by subjecting those seeking modification or termination of GSP benefits to greater requirements than are imposed on petitioners seeking benefits. Petitions failing to provide required information should be refused further consideration unless the petitioner shows that, following a good faith effort to obtain that information, the information cannot be obtained.

The Committee is aware that the President is considering development of a standard petition under current authority and therefore does not intend to create a statutory petition process. The Committee strongly believes, however, that petitions containing limited amounts of information, such as petitioners' names, actions sought, and products involved, should be supplemented by information detailing anticipated impacts on U.S. industry and foreign suppliers if a request is to be granted. Information on trends concerning BDC's market shares in U.S. and important foreign markets, petitioners' actual production and capacity, the petitioners' costs of production, and thorough analyses of how these factors are likely to change if the request is granted should be included. Section 501 as amended will continue to place great emphasis on the effects that granting GSP treatment for a particular article will have on U.S. industry. Petitions failing to provide information reasonably available to petitioners permitting analysis of section 501 factors, particularly the information outlined above, should in most cases be refused review.

Second, the Committee approves of the President's intent to restrict review of petitions requesting additions to the list of eligible

articles. The President has approved regulatory changes in the GSP program that will prevent reconsideration for three years of a petition concerning an eligible article or articles for which a petition has been denied. Furthermore, it is recognized that in some instances it may be appropriate to apply a longer waiting period. In gauging the appropriate period, factors such as production methods or processes and investment requirements should be considered as well as information indicating a change in circumstances since the previous review. At the same time, U.S. business would retain the right to seek modifications in GSP benefits on the basis of changes in circumstances on an annual basis.

Third, the Committee believes greater exposure of the GSP decision-making process is necessary to facilitate Congressional and public scrutiny of the program's adherence to the expanded section 501 guidelines, having regard at the same time for necessary safeguards for confidential business and other classified information. Information relied upon in formulating decisions, such as aggregate information on U.S. and world market shares, competitive ability, and the sensitivity of exports of articles to changes in their price, should be released on request. The reason for conclusions supporting GSP decisions should also be made available on request.

Fourth, the Committee recognizes that interested parties have an opportunity under the statutory provisions of the present program and its administration to participate fully in the review process. However, they should be given additional opportunities to submit information and comments on a petition prior to the making of a final decision. The present petition process includes development of an ITC report on probable economic effects on the relevant U.S. industry. The Committee believes it should be made clear that all interested parties are able to submit information to the ITC in accordance with section 503(a) of the Trade Act concerning competitive or potentially competitive countries other than a petitioning country which may impact U.S. markets as a result of the extension of benefits. Further, any interested parties should be given an opportunity to submit additional information and comments to the TPSC concerning that report before a final decision is made on the underlying petition.

Fifth, the Committee strongly encourages the President to promulgate additional regulations clarifying and detailing the requirements for obtaining modifications in GSP benefits. The Committee believes that a full specification of procedures to be followed by petitioners and by the President will improve the administration of the program and ensure that the administration will continue to be responsive to import situations which are likely to have substantial adverse consequences for U.S. producers of like and directly competitive products.

Finally, it is the Committee's expectation in conjunction with annual product reviews that parties interested in the implementation and protection of internationally recognized worker rights shall be granted the same privilege of participation in the giving of advice in the formulation of government actions pursuant to section 502(b) as amended as are extended to parties having significant economic interest in the formulation of government action pursuant to section 503 as amended.

The Committee expects the USTR to review each of the present GSP beneficiary countries to determine whether it complies with the designation criteria under section 502(b) and (c), in particular the new factors added by section 3 of the bill. The importance of this process, as well as the general product review required by 1987, make it imperative that the President have as much information as possible. The Committee strongly recommends the use of public hearings as an aid in obtaining this information.

The USTR should consult with interested U.S. industry representatives, particularly those who are actively engaged in, or seek to engage in trade and investment in BDCs. In annual product reviews as well as in the designation of BDCs and other relevant determinations under the GSP program, the President should invite comments from any party concerning any of the factors listed in sections 501 and 502(b) and (c).

In addition, it is the Committee's intent that USTR establish a formal procedure through which parties interested in the implementation and protection of internationally recognized worker rights at least once a year can offer testimony or submit written comments during at least one public hearing on issues pertaining to countries' eligibility for designation as beneficiary developing countries.

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 6023 was ordered favorably reported by the Committee on Ways and Means to the House by a voice vote with an amendment.

OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee has concluded, as a result of extensive hearings and an in-depth review of the issues involved, that the GSP program provides substantial economic benefits to developing countries and to the United States and should be renewed with the substantial improvements in H.R. 6023, as amended, to achieve a wider distribution of GSP benefits and certain other U.S. trade objectives.

In regard to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 7(a) of rule XIII and with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 6023 as amended does not provide new budget authority or any new or increased tax expenditures.

In compliance with clause 7(a) of rule XIII and with clauses 2(1)(3) (B) and (C) of rule XI of the Rules of the House of Representatives, the Committee provides below information furnished by the Congressional Budget Office on H.R. 6023 and required to be included herein:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 1984.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has examined H.R. 6023, amending the current Generalized System of Preferences, as approved by the Committee. The bill would extend until January 3, 1990 legislative authority to accord duty-free entry to eligible products from eligible countries. Under current law, the authority would expire January 3, 1985. In addition, the bill would place certain restrictions on preferential treatment, expand the existing list of statutory product exclusions, and modify the criteria for determining a country's eligibility.

Estimating the revenue loss from this bill is impossible due to the number of products and countries eligible for duty-free entry and the discretionary nature of the program. The bill would not affect budget outlays or tax expenditures.

With best wishes.

Sincerely,

RUDOLPH G. PENNER.

INFLATIONARY IMPACT STATEMENT

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 6023, as amended, would not have an inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

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TITLE V—GENERALIZED SYSTEM OF PREFERENCES

* * * * *

[Sec. 505. Time limit on title; comprehensive review.]

Sec. 505. Termination of duty-free treatment and reports.

Sec. 506. Agricultural exports of beneficiary developing countries.

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TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; **[and]**

(3) the anticipated impact of such action on United States producers of like or directly competitive products **[.]**; and

(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

SEC. 502. BENEFICIARY DEVELOPING COUNTRY.

(a)(1) For purposes of this title, the term "beneficiary developing country" means any country with respect to which there is in effect an Executive order by the President of the United States designating such country as a beneficiary developing country for purposes of this title. Before the President designates any country as a beneficiary developing country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(2) If the President has designated any country as a beneficiary developing country for purposes of this title, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order which has the effect of terminating such designation) unless, at least 60 days before such termination, he has notified the House of Representatives and the Senate, and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(3) For purposes of this title, the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order provide that all members of such association other than members which are barred from designation under subsection (b) shall be treated as one country for purposes of this title.

(4) For purposes of this title, the term "internationally recognized worker rights" includes—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(b) No designation shall be made under this section with respect to any of the following:

Australia	Japan
Austria	Monaco
Canada	New Zealand
Czechoslovakia	Norway
European Economic Community member states	Poland
Finland	Republic of South Africa
Germany (East)	Sweden
[Hungary]	Switzerland
Iceland	Union of Soviet Socialist Republics

In addition, the President shall not designate any country a beneficiary developing country under this section—

(1) if such country is a Communist country, unless (A) the products of such country receive nondiscriminatory treatment, (B) such country is a contracting party to the General Agreement on Tariffs and Trade and a member of the International Monetary Fund, and (C) such country is not dominated or controlled by international communism;

(2) if such country is a member of the Organization of Petroleum Exporting Countries, or a party to any other arrangement of foreign countries, and such country participates in any action pursuant to such arrangement the effect of which is to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level and to cause serious disruption of the world economy;

(3) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976, or that action will be taken before January 1, 1976, to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(4) if such country—

(A) has nationalized, expropriated, or otherwise seized ownership or control of property, *including patents, trademarks, or copyrights* owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, *including patents, trademarks, or copyrights* so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, *including patents, trademarks, or copyrights*, unless—

(D) the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good faith negotiations to provide prompt, adequate, and effective compensation under this applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(5) if such country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) produced, processed, or transported in such country from entering the United States unlawfully;

(6) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute; **[and]**

(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism **[.]**; and

(8) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Paragraphs (4), (5), (6), **[and (7)]** (7), and (8) shall not prevent the designation of any country as a beneficiary developing country under this section if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary developing country under this section, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate.

(3) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country; **[and]**

(4) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country **[.]**;

(5) *the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;*

(6) *the extent to which such country has taken action to—*

(A) reduce trade distorting investment practices and policies (including export performance requirements); and

(B) reduce or eliminate barriers to trade in services; and

(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

* * * * *

SEC. 503. ELIGIBLE ARTICLES.

(a) * * *

* * * * *

(c)(1) The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles—

(A) textile and apparel articles which are subject to textile agreements,

(B) watches,

(C) import-sensitive electronic articles,

(D) import-sensitive steel articles,

[(E) footwear articles specified in items 700.05 through 700.27, 700.29 through 700.53, 700.55.23 through 700.55.75, and 700.60 through 700.80 of the Tariff Schedules of the United States,]

(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984,

(F) import-sensitive semimanufactured and manufactured glass products, and

(G) any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(G) any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) No article shall be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act or section 232 or 351 of the Trade Expansion Act of 1962.

(d) Notwithstanding any other provision of law, the Secretary of the Treasury shall, after consulting with the United States Trade Representative, prescribe regulations governing rule-of-origin requirements under this title.

SEC. 504. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a)(1) The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section 501 with respect to any article or with respect to any country; except that no rate of duty may be established in respect of any article pursuant to this section other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1987, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).

* * * * *

[(c)(1) Whenever the President determines that any country—

[(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to \$25,000,000 as gross national product of the United States for the preceding calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1974, or

[(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year.

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article, except that, if before such 90th day, the President determines and publishes in the Federal Register that, with respect to such country—

[(i) there has been an historical preferential trade relationship between the United States and such country,

[(ii) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

[(iii) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

then he may designate, or continue the designation of, such country as a beneficiary developing country with respect to such article.

[(2) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated, subject to the provisions of section 502, a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in paragraph (1) of this subsection during the preceding calendar year.

[(3) For purposes of this subsection, the term "country" does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

[(d) Subsection (c)(1)(B) does not apply with respect to any eligible article if a like or directly competitive article is not produced on the date of enactment of this Act in the United States. The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to \$1,000,000 as the gross national product of the United States for that calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1979.]

(c)(1) Subject to paragraphs (2) through (8) and subsection (d), whenever the President determines that any country—

(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to \$25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

then, not later than July 1 of the next calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

(2)(A) Not later than January 4, 1986, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

(i) "1984" for "1974" in subparagraph (A) of that paragraph; and

(ii) "25 percent" for "50 percent" in subparagraph (B) of that paragraph.

(3) If the President determines that any beneficiary developing country, in any calendar year after 1984—

(A) had a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of \$5,000 or more; or

(B) exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title and had an appraised value of more than 10 percent of the appraised value of the total imports of all articles that entered the United States duty-free under this title during that year;

then not later than July 1 of the next calendar year paragraph (1) shall be applied to such country with respect to all eligible articles by substituting—

(i) "1984" for "1974" in subparagraph (A) of that paragraph; and

(ii) "25 percent" for "50 percent" in subparagraph (B) of that paragraph.

(4) If the President determines that any beneficiary developing country had, for any calendar year (hereafter in this paragraph referred to as the 'determination year') after 1984, a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of \$9,000 or more, then paragraph (1)(B) shall thereafter be applied with respect to the eligible articles of that country as follows:

(A) In the case of eligible articles that were subject during the determination year to a 50 percent limitation under paragraph (1)(B), "25 percent" shall be substituted for "50 percent" in that paragraph with respect to eligible articles of that kind during the 24-month period beginning not later than July 1, of the year after the determination year.

(B) In the case of eligible articles that were subject during the determination year to a 25 percent limitation under paragraph (1)(B), that limitation shall continue to apply to eligible articles of that kind during the 12-month period beginning not later than July 1 of the year after the determination year.

(C) The country shall not be treated as a beneficiary developing country with respect to eligible articles—

(i) to which subparagraph (A) applies, after the close of the 24-month period referred to in that subparagraph; or

(ii) to which subparagraph (B) applies, after the close of the 12-month period referred to in that subparagraph.

(5)(A) Not earlier than January 4, 1986, the President, subject to subparagraph (C), may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the year after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

(iii) publishes the determination described in clause (ii), together with a summary of the reasons therefor, in the Federal Register.

(B) Any waiver granted under this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

(C)(i) No waiver may be granted under subparagraph (A) with respect to paragraph (4).

(ii) No waiver granted under subparagraph (A) with respect to paragraph (1), in regard to any eligible article of a beneficiary developing country to which a determination under paragraph (3) applies, may result in the imposition of any limitation exceeding that that would apply under paragraph (1) (A) or (B) without regard to paragraphs (2) through (8).

(iii) The waiver authority under subparagraph (A) is limited, with respect to the eligible articles of countries not subject to paragraph (3) or (4), during each 12-month period for which that authority is effective following the close of a calendar year referred to in subparagraph (A) to a quantity of those articles that has an aggregate value equal to 25 percent of the total value of all articles that entered the United States duty-free under this title during that calendar year. There shall be counted against the limitation imposed under the preceding sentence for any 12-month period only that quantity of any eligible article of any country not subject to paragraph (3) or (4) that—

(I) entered the United States duty-free under this title during that period; and

(II) is in excess of the quantity of that article that would have been so entered during that period if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

(6) Except in any case to which paragraph (2)(B), (3), or (4) applies, the President may waive the application of this subsection if, not later than July 1 of the year after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

(A) there has been an historical preferential trade relationship between the United States and such country,

(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

(7) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection (other than paragraph (4)) may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations (as they may have been adjusted as a result of the application of paragraph (2)(B) or (3)) in paragraph (1) during the preceding two calendar years.

(8) For purposes of this subsection, the term "country" does not include an association of countries which is treated as one country

under section 502(a)(3), but does include a country which is a member of any such association.

(d)(1) Subsection (c)(1)(B) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to \$5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1984.

* * * * *

[SEC. 505. TIME LIMIT ON TITLE; COMPREHENSIVE REVIEW.]

[(a) No duty-free treatment under this title shall remain in effect after the date which is 10 years after the date of the enactment of this Act.

[(b) On or before the date which is 5 years after the date of the enactment of this Act, the President shall submit to the Congress a full and complete report of the operation of this title.]

SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

(a) No duty-free treatment provided under this title shall remain in effect after January 3, 1990.

(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES

The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

* * * * *